

**REMARKS**

Claims 1-22 and 33-52 are pending in this case. Applicants respectfully request reconsideration in view of the following remarks.

Claims 1, 2, 4-13, and 15-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fischer (U.S. Patent No. 6,823,353) in view of Kabir (U.S. Patent No. 5,933,160). Claims 3 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fischer and Kabir, and further in view of Cohen (U.S. Patent No. 5,751,614). Claims 33, 35, 40-43, 45, and 50-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kabir. Claims 34, 36-39, 44, and 46-49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kabir and further in view of Thekkath (U.S. Patent No. 6,732,259). Applicants respectfully traverse.

None of these cited references qualifies as prior art against the present invention. The present application claims priority to the August 16, 1995 filing date of U.S. Patent Application No. 08/516,036, which issued as U.S. Patent No. 5,742,840 (the '840 patent). As noted in the Office Action, this chain of priority includes a continuation-in-part (CIP) application, and U.S. Patent Application No. 09/382,402, which issued as U.S. Patent No. 6,295,599 (the '599 patent).

Fischer, Kabir, Cohen, and Thekkath are each dated after the August 16, 1995 priority date of the present invention. Fischer is a U.S. patent that has an earliest possible effective filing date of September 5, 1995 and an issue date of November 23, 2004. Kabir is a U.S. patent that has a filing date of November 27, 1995 and an issue date of August 3, 1999. Cohen is a U.S. patent that has an earliest possible effective filing date of February 29, 1996 and an issue date of

May 12, 1998.<sup>1</sup> Thekkath is a U.S. patent that has a filing date of July 30, 1999 and an issue date of May 4, 2004. As such, none of the cited references qualifies as prior art against the presently claimed invention, and thus the § 103 rejections based on these references should be withdrawn.

The Examiner's argument for rejection of Applicant's claim to the August 16, 1995 priority date is based on "whether an appendix in a prior application can be used to overcome prior art in a current application." Office Action ("OA") p. 2. Specifically, the Office Action states that (i) "the '840 patent did not incorporate the attached appendix by reference", and (ii) "the '599 patent did not incorporate the disclosure of the '840 patent by reference." OA p. 4. Further, on the same page the Office Action adds an additional objection, by inclusion of "Note: the appendix of the '599 case is not incorporated by reference into the '599 case."

Applicants submit that the '840 and '599 Appendices are part of the disclosure of the applications for those patents as filed properly cited microfiche appendices and there is no gap in the disclosure such as that found in the case law cited by the examiner. The Examiner's expressed requirement for "incorporation by reference" is inapplicable when an appendix is included as part of the application, and, arguendo, even if the Examiner's inapplicable requirement for incorporation by reference which existed at the time was required, Applicants' filings satisfied that requirement. Therefore, the '840 and '599 patents include their respective appendices and the chain of disclosure is such that the claims of the instant application are entitled to the filing date of the application for the '840 patent.

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<sup>1</sup> Cohen fails to qualify as prior art because the earliest filing date of Cohen associated with the "mask" feature in Fig. 3 cited by the Examiner is February 29, 1996. Cohen is a continuation-in-part (CIP) of parent application 08/444,814, filed May 18, 1995. However, the "mask" feature cited by the Examiner was not disclosed in the parent application and appeared for the first time in the Cohen application filed February 29, 1996.

**I. THE '840 PATENT DISCLOSURE INCLUDES THE APPENDIX FILED WITH THE '840 APPLICATION**

**A. The '840 Appendix is Part of the '840 Disclosure as a Properly Filed Microfiche Appendix**

The '840 Appendix, filed as a microfiche appendix, was properly submitted with the typed specification of the '840 patent application in accordance with the CFR Rules and MPEP requirements governing microfiche appendices, and is thus part of the '840 disclosure. The Examiner's reliance on *Seversky* and *Lund* in arguing that the Appendix was not incorporated by reference misses the main point, namely, that the '840 Appendix was a properly submitted microfiche appendix<sup>2</sup> - it is not an unrelated publication or patent or another document of the type typically incorporated by reference.

1. The '840 Appendix Satisfied the Relevant CFR Rules at the Time of the Filing.

37 CFR 1.96<sup>3</sup> governs microfiche appendices filed with an application. In 1995, Rule 1.96(b) provided:

If a computer program listing printout is eleven or more pages long, applicants must submit such listing in the form of microfiche, referred to in the specification (see § 1.77(c)(2)). Such microfiche filed with a patent application is to be referred to as a "microfiche appendix." [ ] Reference in the application to the "microfiche appendix" must be made at the beginning of the specification at the location indicated in § 1.77(c)(2).

Additionally, 37 CFR 1.77 provided:

The elements of the application, if applicable, should appear in the following order:

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(c)(2) Reference to a "Microfiche appendix if any." (See § 1.96(b)). The total number of microfiche and total number of frames should be specified.

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<sup>2</sup> In any event, Applicants specifically incorporated the Appendix by reference in the '840 patent at column 13, lines 21-24: "One presently preferred instruction set for the general purpose media processor 12 is included in the Microfiche Appendix, the contents of which are hereby incorporated herein by reference."

<sup>3</sup> All CFR and MPEP citations are to the versions that existed when the application in question was filed, i.e., August 16, 1995, for the '840 application and August 24, 1999 for the '599 application, unless otherwise noted.

For a microfiche appendix to form part of the disclosure, the plain language of 37 CFR 1.77 and 1.96 simply required a reference in the specification to the appendix. In other words, if the appendix is filed with the application and is referenced in the specification of the application, then the appendix is one of the “elements of the application” and becomes a part of the disclosure. That was done at the time of filing of the ‘840 application in 1995, and was accepted by the PTO. There was no requirement – beyond what is required by the rules cited above – that an applicant expressly incorporate a microfiche appendix by reference when the appendix was filed with an application for that appendix to form part of the disclosure.

As noted by the Examiner, column 1, lines 5-6, of the ‘840 patent states: “A Microfiche Appendix consisting of 4 sheets (387 total frames) of microfiche is included in this application.” As such, its status as part of the ‘840 disclosure is governed by the rules (at the time of filing) covering the submission of microfiche appendices and was properly incorporated into the specification.

The ‘840 Appendix thus satisfied the CFR requirements for inclusion in the patent as a microfiche appendix and is part of the ‘840 patent.

## 2. The ‘840 Appendix Satisfied the MPEP Requirements.

MPEP 608.05 provided:

### **BACKGROUND**

A computer program listing, as used in these rules, means the printout that lists, in proper sequence, the instructions, routines, and other contents of a program for a computer. . . . The general description of the computer program listing will appear in the specification while the computer program listing may appear either directly or as a microfiche [] appendix to the specification and be incorporated into the specification by reference.

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### **OTHER INFORMATION**

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The face of the file jacket will bear a label to denote that a Microfiche Appendix is included in the application. A statement must be included in the

specification to the effect that a microfiche appendix is included in the application. The specification entry must appear at the beginning of the specification immediately following any cross-reference to related applications. 37 CFR 1.77(c)(2).

MPEP (6th Ed.) at 608.05.

The MPEP specifically described the language that should be used to include the appendix in the specification: “A statement must be included in the specification to the effect that a microfiche appendix is included in the application.” The *effect* of such reference is that the appendix is “incorporated into the specification by reference.” This requirement was followed in the ‘840 specification, and thus, as indicated in MPEP 608.05, the ‘840 Appendix is “incorporated into the specification by reference.”

The current version of MPEP 608.05 provides further evidence that this section of the MPEP was never intended to create a separate requirement that an attached appendix must be “incorporated by reference” in order to be considered part of the original disclosure of the application. Rather, the current version of the MPEP makes a point to expressly clarify that such an appendix is considered part of the original disclosure of the application by virtue of being included with the application on the date the application is filed:

Compact disc(s) filed on the date that the application was accorded a filing date are to be treated as part of the originally filed disclosure. . . . The compact disc(s) is considered part of the original disclosure by virtue of its inclusion with the application on the date the application is accorded a filing date.

This positive assertion that a properly submitted appendix “is considered part of the original disclosure” more clearly states the PTO’s position on this issue and should be controlling here.<sup>4</sup>

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<sup>4</sup> Applicants submit that one reason the Right of Appeal Notice (RAN) in Reexamination Control No. 95/000,089 for U.S. Patent No. 6,643,765 is not controlling is that it misses this basic point.

**B. The *Seversky* and *Lund* Cases Cited in the Office Action are Not Applicable to the ‘840 Appendix**

The Office Action at page 3 cites *Seversky* as support for its conclusions on priority, but that case is not relevant to whether an appendix is part of a disclosure for priority purposes – *Seversky*, as with *Lund*, applies to incorporation by reference generally, not submission of an appendix with an application. In particular, *Seversky* applies to the limited factual scenario in which an applicant attempted to argue that a simple priority claim to an earlier-filed patent application (**not** an appendix) standing alone has the effect of incorporating the entire disclosure of that prior application by reference. The Court held that “a mere *reference* to another application, or patent, or publication is not an *incorporation* of anything therein into the application containing such reference for the purposes of the disclosure required by 35 U.S.C. § 112.” *Id.* at 674.

In *Seversky*, a grandparent application had been filed disclosing a Venturi inlet. *Seversky* later filed a CIP (“parent”) application claiming priority from the grandparent application but not disclosing the Venturi inlet. Still later, after the grandparent application had issued but during the pendency of the parent application from which priority was claimed, *Seversky* filed the CIP application under examination disclosing and claiming the Venturi inlet. The gap in priority is manifest – after the grandparent application had issued and before the application under examination was filed, there was no disclosure of the Venturi inlet in the pending parent application from which the application in question claimed priority.

*Seversky* attempted to avoid the gap in priority by contending that the parent application’s claim of priority to the grandparent incorporated by reference the entire content of the grandparent application, including its disclosure of the Venturi inlet. The Court disagreed, applying *Lund*, to the effect that a mere priority claim in a continuation-in-part application does

not incorporate the entire disclosure of a prior application by reference. Applicants here do not contest this basic principle of patent law.

Here, there is no gap in priority. The '840 Appendix was part of the '840 disclosure, as discussed above, and disclosed the invention claimed herein. Furthermore, the '599 Appendix was part of the '599 disclosure as discussed below. The gap in disclosure which defeated priority in *Seversky* does not exist here, nor is there any attempt here to contend that the priority claim, standing alone, incorporated by reference the prior cited disclosures.

## **II. THE '599 PATENT DISCLOSURE INCLUDED THE APPENDIX FILED WITH THE '599 APPLICATION**

### **A. The '599 Appendix Satisfied the Relevant CFR Rules and MPEP Section Governing Appendices for Inclusion as Part of the '599 Disclosure**

The '599 Appendix complied with both 37 C.F.R. § 1.96(c) and 37 C.F.R. § 1.77(a)(6) then in effect governing appendices, which were essentially unchanged from the corresponding rules in effect on the filing date of the '840 application.<sup>5</sup> The specification of the '599 application as filed contained the following statement under the heading "Microfiche Appendix": "Included herewith as an Appendix are 5 sheets of microfiche of 63 frames each." ('599 application at 1). The printed '599 patent states on the title page:

"Microfiche Appendix Included

(5 Microfiche, 309 Pages)"

and at Col. 1, ll. 12-15:

"MICROFICHE APPENDIX

Included herewith as an Appendix are 5 sheets of microfiche of 309 frames."

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<sup>5</sup> When the application for the '599 patent was filed, Rule 1.77(c)(2) had been replaced by Rule 1.77(a)(6), and Rule 1.96(b) had been replaced by Rule 1.96(c), but there was no change in substance, and the slight wording changes were insignificant.

As required by 37 C.F.R. § 1.96, the ‘599 Appendix is referred to as a “microfiche appendix,” and the number of frames or pages of microfiche are identified as required by 37 C.F.R. § 1.77. Thus, the ‘599 Appendix was referenced as required by the CFR rules governing appendices. As stated above with respect to the ‘840 Patent, the reference in the ‘599 application to the ‘599 Appendix under the applicable rules had the *effect* of incorporating the appendix by reference into the patent disclosure.

Similarly, the requirements of MPEP 608.05 for inclusion of the ‘599 Appendix as part of the ‘599 disclosure were satisfied by the ‘599 application and Appendix. MPEP 608.05 requires a statement “in the specification to the effect that a microfiche appendix is included in the application.” MicroUnity clearly followed the requirements of MPEP 608.05 by stating, “Included herewith as an Appendix are 5 sheets of microfiche of 63 frames each.” Moreover, MPEP 608.05 provides that “[t]he face of the file wrapper will bear a label to denote that a Microfiche Appendix is included in the application.” In this case, the face of the ‘599 file wrapper has the following handwritten notation: “MICROFICHE APPENDIX 5 SHEETS 309 FRAMES,” as reflected on the title page of the printed ‘599 Patent.<sup>6</sup> The result, as stated in MPEP 608.05, is that the ‘599 Appendix “is included in the application,” *i.e.*, the appendix is part of the disclosure for § 112 purposes and must be considered in the priority analysis.<sup>7</sup> To the extent the Examiner interprets MPEP 608.05 in a manner that is inconsistent with 37 C.F.R. §§ 1.77 and 1.96, such an interpretation is impermissible.

The PTO cannot disregard its own rules. *Thuron Indus., Inc. v. Conard-Pyle Co.*, 579 F.2d 633, 637 (CCPA 1978) (“Like any government agency, the PTO is bound by, and may not

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<sup>6</sup> While priority depends on applications and not issued patents, applications which have become patents are referred to herein by reference to the printed patent for convenience, as was done in the Office Action.

<sup>7</sup> The current edition of MPEP 608.05 confirms that the ‘599 Appendix is “considered part of the original disclosure by virtue of its inclusion with the application on the date the application is accorded a filing date.”



ignore, its own rules.”). Similarly, to the extent the Examiner interprets the MPEP as prescribing more onerous terms for inclusion of an appendix than the applicable CFR rules, the applicable rules govern. *Tunik v. Merit Sys. Prot. Bd.*, 407 F.3d 1326, 1345-46 (Fed. Cir. 2005) (“So long as this regulation remains in force the Executive Branch is bound by it, and indeed the United States as the sovereign composed of the three branches is bound to respect and to enforce it.” (quoting *United States v. Nixon*, 418 U.S. 683, 695-96 (1974))).

**B. The Incorporation by Reference Standards Applied by the Examiner are not Applicable to the ‘599 Application and Appendix**

As stated above with respect to the ‘840 application and Appendix, the *Seversky* and *Lund* cases cited by the examiner are similarly not applicable to the ‘599 application and Appendix. The ‘599 Appendix was filed with the ‘599 application in accordance with 37 C.F.R. §§ 1.77 and 1.96 governing appendices, and in accordance with MPEP 608.05 applicable to appendices. There is no disclosure gap as in *Seversky*. The *Seversky* and *Lund* cases simply do not apply.

The Office Action at p. 14 states: “The appendix of the 599 reference is not incorporated by reference and similarly does not satisfy the disclosure requirement for the ‘599 patent and later applications for the purpose of having the benefit [of] an earlier filing date.” It appears that the Examiner is applying the standards for incorporation by reference provided by the current 37 C.F.R. § 1.57 and MPEP 608.01(p), the latter of which cites to the *Seversky* case for guidance. Notably, 37 C.F.R. § 1.57 did not exist at the time the ‘599 application was filed – the rule number was simply reserved for future use.

However, current 37 C.F.R. § 1.57 and MPEP 608.01(p), and hence the Office Action’s requirements for incorporation by reference beyond what is otherwise required for an appendix, are not directly relevant here. MPEP 608.01(p), at the time and now, is directed mainly toward

the situation where an application incorporates subject matter from another “application, patent, or publication” (*i.e.*, documents that are not typically filed with the application). MPEP 608.01(p) is not directed to the situation in which an appendix is filed with an application. Thus, while an appendix properly filed with an application is automatically part of the disclosure (as per 37 C.F.R. §§ 1.77 and 1.96), 37 C.F.R. § 1.57 currently, and MPEP 608.01(p) then and now, allows an applicant to make certain information that is not filed with the application to become a part of the disclosure (as if filed with it) through the doctrine of incorporation by reference. Therefore, 37 C.F.R. § 1.57 and MPEP 608.01(p) would not directly apply to the appendix filed as part of the ‘599 filing.

The PTO has promulgated specific rules to address microfiche appendices, namely 37 C.F.R. §§ 1.77 and 1.96, and neither those Rules nor the MPEP refer to 37 C.F.R. § 1.57 or MPEP 608.01(p) as governing this situation. Furthermore, as also discussed above, the relevant Rules and MPEP provisions for microfiche appendices do not require an express incorporation by reference beyond what is stated in those rules. Nor do those Rules and MPEP provisions require the type of incorporation detail that the Examiner now seems to believe is required. To the extent that the Examiner reads any Patent Office Rule or MPEP section as inconsistent with, or more onerous than, 37 C.F.R. §§ 1.77 and 1.96 specifically applicable to appendices, these Rules govern. *Tunik*, 407 F.3d at 1345-46.

**C. Even if “Incorporation by Reference” Were to Be Required under *Seversky* and *Lund*, the ‘599 Disclosure Meets That Requirement**

The Office Action indicates that the ‘599 Appendix “is not incorporated by reference” into the ‘599 specification, Office Action p. 4. As discussed above, the ‘599 Appendix was part of the ‘599 disclosure according to 37 CFR 1.77 and 1.96 respectively. Nonetheless, if the requirements of MPEP 608.01(p) in effect at the time the ‘599 application was filed were

somehow found applicable (37 C.F.R. § 1.57 did not exist at the time), the ‘599 specification’s references to the included ‘599 Appendix would satisfy that requirement.

The ‘599 specification references the ‘599 Appendix and includes incorporation of the entire Appendix with specificity – “Included herewith as an Appendix are 5 sheets of microfiche of 309 frames.” (‘599 Patent at col. 1, ll. 14-15). The cover page of the ‘599 patent states: “Microfiche Appendix Included.” Similarly, column 14, lines 64-65 states that the entire ‘599 Appendix is part of the disclosure: “The foregoing elements of the present invention may be better understood with reference to the attached Appendix.”

These are clear statements of incorporation. The phrase “[i]ncluded herewith as an Appendix” or simply “included” is the equivalent of using the words “incorporated by reference” (although those particular words were not required). The language – on its face – says that the entire Appendix is included with the specification, meaning it forms part of the ‘599 disclosure. No such statements of incorporation existed in the *Seversky* case on which the Examiner relies.

Furthermore, the text of the ‘599 patent refers repeatedly to the ‘599 Appendix and it would be clear to one skilled in the art that the discussion in the text incorporates the appendix. For example, Figure 1 of the ‘599 patent discloses the architecture of the disclosed processor, including execution units X 143, 148; G 143, 144, 146, 147; and E 141, 149. The function of the crossbar switch (X) units is described as follows at column 4, lines 60 to column 5, line 4:

The execution functional units 142 and 148 are crossbar switch units that perform crossbar switch instructions. The crossbar switch units 142 and 148 perform data handling operations on the data stream provided over the data path source operand buses 151-158, including deals, shuffles, shifts, expands, compresses, swizzles, permutes and reverses, plus the wide operations discussed hereinafter. In a key element of a first aspect of the invention, at least one such operation will be expanded to a width greater than the general register and data path width.

**Examples of the data manipulation operations are described in the Appendix included herewith.** (*emphasis added*)

The crossbar instructions performed by the crossbar switch units are disclosed in detail on pp. 187-220 of the '599 Appendix.

Similarly, the ensemble (E) units are also described in the '599 patent, beginning at column 5, lines 5-13, and makes reference to the appendix stating:

The execution functional units E 141 and 149 are ensemble units that perform ensemble instructions using a large array multiplier, including group or vector multiply and matrix multiply of operands partitioned from data path source operand buses 151-158 and treated as integer, floating-point, polynomial or Galois field values. Matrix multiply instructions and **other operations described in the Appendix included herewith** utilize a wide operand loaded into the wide operand microcache 132 and 136. (*emphasis added*)

The group floating-point instructions claimed in the present application are described in detail as part of the ensemble instructions executed by the ensemble units at pages 221-282 of the '599 Appendix. The specific group floating-point multiply-add instructions of claim 1 are described at pages 264-266 of the '599 Appendix, and the group floating-point multiply instructions of claim 10 are described at pages 258-260 of the '599 Appendix. Figures 38A-C of the present application, disclosing the group floating-point multiply instructions, are taken verbatim from the '599 Appendix, and Figures 38D-F of the present application, disclosing the group floating-point multiply-add instructions of claim 1, are taken verbatim from the '599 Appendix as well, at the pages referred to above.

The '599 specification cited above specifically notes that the ensemble execution units perform instructions on "group . . . operands partitioned from data path source operand buses 151-158." This description, and the category of ensemble instructions referred to above, include the E.MUL.ADD.F<sup>8</sup> floating-point multiply-add instructions starting on p. 264 of the '599 Appendix which are the basis for all of the claims at issue here, starting with claim 1.

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<sup>8</sup> In E.MUL.ADD.F.32, for example, "E" indicates an ensemble instruction, including instructions called "group floating-point" in the claims and in the '599 patent at col. 5, l. 7; "MUL.ADD" indicates a multiply-add operation; "F" indicates floating-point; and "32" is the size, e.g. single precision, of the partitioned element.

As cited above, the '599 Patent at column 4-5 regarding the ensemble (E) and crossbar (X) units specifically and directly references the '599 Appendix, and in the text between them on the G units, the reference is inherent. On column 14, all such execution units are discussed by reference to the '599 Appendix. The '599 patent contains at least eight explicit references to the '599 Appendix within the text of the patent.

It is axiomatic that a patent is to be read as it would have been by one skilled in the art. See 35 U.S.C. § 112. The numerous references in the '599 specification to the ensemble execution unit described in the Appendix which processes the floating-point multiply-add instructions claimed and described in the '599 Appendix, and the references to similar instructions in the '599 Appendix, clearly would have led one skilled in the art to the support for the claimed invention herein as described in the '599 Appendix. In short, the specific references to the '599 Appendix in the specification lead directly to the matter claimed.

The purpose of incorporation by reference "is to make one document become a part of another document by referring to the former in the latter in such a manner that it is apparent that the cited document is part of the referencing document as it [*sic*, if] it were fully set out therein." *Lund* at 989. Indeed, the quotation of *Seversky* in the Office Action at pages 3-4 is a reiteration of this exact standard. Applying this standard, the C.C.P.A., in *In re Saunders*, held that the following language constituted an incorporation by reference:

The above-described siloxane-oxyalkylene block copolymers can be prepared in accordance with the procedures described and claimed in the copending application of D.L. Bailey and F.M. O'Conner, Serial No. 417,935, filed December 14, 1953

444 F.2d 599, 602-03 (C.C.P.A. 1971).

Similarly, in *In re Hughes*, the C.C.P.A. held that the language "Reference is made to application Ser. No. 131,108 for complete descriptions of methods of preparing aqueous

polymeric dispersions applicable in the hereinafter described invention” was an incorporation by reference. 550 F.2d 1273, 1276 (C.C.P.A. 1977). Last month, in *Callaway Golf Company v. Acushnet Company*, 2009-1076, <http://pub.bna.com/ptcj/091076Aug14.pdf>, the Federal Circuit held that the language “Reference is made to the application Ser. No. 155,658, of Robert P. Molitor issued into U.S. Pat. No. 4,274,637 which describes a number of foamable compositions of a character which may be employed for one or both layers 14 and 16 for the golf ball of this invention” constituted an appropriate incorporation by reference in a prior art context. The relevant language in the ‘599 specification (*e.g.*, col. 1, ll. 14-15 and col. 14, ll. 64-65) satisfies the standard followed in these cases, and therefore, the entire Appendix was incorporated (even under MPEP 608.01(p) (7th Ed.)).

Moreover, under the rules in effect at the time, including any requirement imposed by *Seversky* or *Lund*, applicants submit that the ‘599 Appendix was incorporated by reference as to the subject matter claimed herein, and is part of the ‘599 disclosure on that basis as well.

### **CONCLUSION**

Applicants respectfully submit that the pending Section 103 rejections based on various combinations of Fischer, Kabir, Cohen, and Thekkath should be withdrawn because the present invention is entitled to the filing date of August 16, 1995. Both the ‘840 and ‘599 disclosures include their respective appendices and provide proper support for the claims of the present application<sup>9</sup>. Thus, the August 16, 1995 filing date of the present invention is clearly established. Consequently, none of the cited references qualify as prior art, and the pending rejections based on these references should be withdrawn.

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<sup>9</sup> Applicants refer Examiner to the Amendment filed on August 21, 2007 which noted support for the presently claimed inventions found in both the ‘840 and ‘599 disclosures.

**Application No.: 10/757,851**

In view of the above remarks, Applicants respectfully submit that the application is in condition for allowance, and respectfully requests the Examiner's favorable reconsideration as to allowance. The Examiner is invited to contact the Applicants' representative listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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